

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

CLYDE F. WAGNER,
Plaintiffs,

v.

WAL-MART STORES, INC.,
Defendants.

Case No. [13-cv-03475-NJV](#)

**ORDER VACATING HEARING,
DISCHARGING ORDER TO SHOW
CAUSE, AND GRANTING MOTION
FOR LEAVE TO AMEND**

Re: Dkt. No. 25

This court ordered Plaintiff to show cause why his action should not be dismissed, with prejudice, for failure to timely amend his complaint and failing to participate in court-ordered ADR conference calls. Doc. No. 24. In lieu of responding to the order to show cause, Plaintiff filed a motion for leave to amend. Doc. No. 25. Only in his reply brief does counsel for Plaintiff address the court's show cause order. Doc. No. 29. The court finds the matter appropriate for resolution without oral argument, and pursuant to Local Rule 7-1(b), vacates the hearing scheduled for January 14, 2013.

Plaintiff should have filed his amended complaint within the time ordered by the court. Nonetheless, given the relatively short delay caused by Plaintiff and the lack of prejudice to Defendant (Doc. No. 26 at 10), the Federal Rules of Civil Procedure and Ninth Circuit precedent weigh in favor of granting Plaintiff's motion for leave to amend his complaint. *See* Fed. R. Civ. P. 15(a)(2); *see also Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002); *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). However, any future failure to abide by the court's orders (including its Standing Orders), the Federal Rules of Civil Procedure, or the Local Rules of this District, will be met with sanctions.

1 Accordingly, the order to show cause is discharged. Plaintiff shall file his amended
2 complaint (as attached to his motion for leave to amend) no later than December 31, 2013.
3 Defendant shall file a responsive pleading within 21 days of the amended complaint being filed.

4 **IT IS SO ORDERED.**

5 Dated: December 26, 2013

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7 NANDOR J. VADAS
United States Magistrate Judge
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